

JS-6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES—GENERAL

Case No. **CV 11-06669 DMG (VBKx)** Date August 16, 2011

Title ***Eureka Excel Financial Service LLC v. Acedillo Family Trust, et al.*** Page 1 of 1

Present: The Honorable **DOLLY M. GEE, UNITED STATES DISTRICT JUDGE**

VALENCIA VALLERY

Deputy Clerk

NOT REPORTED

Court Reporter

Attorneys Present for Plaintiff(s)
None Present

Attorneys Present for Defendant(s)
None Present

**Proceedings: IN CHAMBERS—ORDER REMANDING ACTION TO LOS ANGELES
COUNTY SUPERIOR COURT**

On February 16, 2011, Plaintiff Eureka Excel Financial Service, LLC filed a complaint in Los Angeles County Superior Court for unlawful detainer against Defendant Acedillo Family Trust and Does 1 through 10. Plaintiff seeks possession of real property and restitution for Defendant's use and occupancy of the property in the amount of \$35 per day starting on February 14, 2011. (Compl. at 3.)

Defendant removed the case to this Court on August 12, 2011, on the basis of federal question jurisdiction. The complaint raises no federal question, however, and federal jurisdiction cannot rest upon an actual or anticipated defense or counterclaim. *Vaden v. Discover Bank*, __ U.S. __, 129 S.Ct. 1262, 1272, 173 L.Ed.2d 206 (2009). Furthermore, the amount in controversy is well below the \$75,000 jurisdictional threshold for diversity jurisdiction. The caption of the underlying state court complaint clearly states that the amount of damages sought by Plaintiff does not exceed \$10,000.

"The burden of establishing federal subject matter jurisdiction falls on the party invoking removal." *Marin Gen. Hosp. v. Modesto & Empire Traction Co.*, 581 F.3d 941, 944 (9th Cir. 2009) (citing *Toumajian v. Frailey*, 135 F.3d 648, 652 (9th Cir. 1998)). There is a "strong presumption against removal jurisdiction," and courts must reject it "if there is any doubt as to the right of removal in the first instance." *Geographic Expeditions, Inc. v. Estate of Lhotka ex rel. Lhotka*, 599 F.3d 1102, 1107 (9th Cir. 2010) (quoting *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992) (*per curiam*)) (internal quotation marks omitted).

Because Defendant has not established a basis for removal jurisdiction on the face of its notice of removal, this action is hereby **REMANDED** to Los Angeles County Superior Court.

IT IS SO ORDERED.